IN THE HIGH COURT OF BOMBAY AT GOA
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SUO MOTU WRIT PETITION (PIL) NO. 297 OF 2003

Versus

1. The Chief Secretary,
   State of Goa,
   Secretariat, Panaji,

2. The Conservator of Forests,
   Govt. of Goa, Panaji, and

3. The President, Comunidade
   of Carambolim, Ilhas, Goa.

4. The Secretary of Agriculture,
   Govt. of Goa, Panaji,

5. The Talem Sawant, Tenant's
   Association, through its
   Chairman, Shri Pandurang Appa
   Kavlekar,

6. The Konkan Railway Corporation,
   having its office near railway
   overbridge, Rvan Fond, Navelim,
   Goa.

Smt. Norma Alvares, Amicus Curiae.

Shri A.N.S. Nadkarni, Advocate General with Shri H. D. Naik, Addl. Govt. Advocate for respondent nos.1 and 3.

Shri S. G. Dessai, Senior Advocate with Mr. Shivan Dessai, advocate for respondent no.5.

Shri E. Afonso, advocate for respondent no.6.

CORAM : F. I. REBELLO &
P. V. HARDAS, JJ.

DATE : 13th August, 2003.

ORAL ORDER

Pursuant to the Court taking suo motu notice and the earlier orders passed on July 1, 2003 and July 16, 2003, and considering the affidavits now filed and

the inspection done on July 30, 2003, it is necessary that further directions are issued.

2. On behalf of the Department of Agriculture, R. G. Joshi, Director of Agriculture has filed an affidavit. His affidavit deals specifically with the steps that have been taken for Weed Management of weeds like Salvinia Molesta, a floating aquatic weed perpetuated in paddy field, ponds, lakes, etc. A survey done in the year 2000-2001 by the Zonal Agricultural Officers, it is pointed out, shows that about 88 hectare area of ponds and lakes and 1185 hectares of paddy fields spread in 30 villages in the State of Goa were found to be infested. In the light of that steps have been taken for the physical removal and disposal of Salvinia weed from infected fields. Insofar as Carambolim lake is concerned, it is pointed out that a group, Carambolim Vikas Shetkar Mandal has already been engaged from the year 2002-2003 and the Agriculture Department has provided them an amount of Rs.3.72 lakhs for weeding out Salvinia in the area of 37.2 hectares. The work is being done under the supervision of the Zonal Agricultural Officer and its subordinates.

3. The weed known as Giant Salvinia (Salvinia Molesta) is a noxious weed belonging to the family of floating fern and is a native of Brazil. It is one of

the world's most damaging aquatic weeds often completely smothering large water bodies and badly affecting water quality. If uncontrolled, it will invade and dominate every fresh water ecosystem in which it is established by forming a thick mat, which displaces and destroys all associated native flora. It is a serious threat to irrigation and water management ranging in all freshwater areas. The plant is a free-floating fern with a branched horizontal stem that lies just below the water surface. The plant has no true roots. The foliage is green to golden brown in colour and has water repellant hairs that aid the flotation of the plant. The leaves are generally rounded, 1-2 cm. long, have an obvious midrib and lie flat on the water surface. Each plant can produce and shed daughter plants at the end of its horizontal axis, which in turn produce further plants until a dense mat is formed. These mats kill off native plants, attract breeding mosquitoes, cause flooding, block dams and irrigation systems, remove oxygen from water and create a drowning risk for people and animals. Methods for controlling and removal have also been attempted and it is found that physical removal has been effective on small scale locations, but is very expensive. Herbicides have also helped in controlling it locally but it has its own limitations because they impact non-target plants, some Salvinia infestations are not easily located or even accessible,

and herbicide treatments are costly and time consuming. Researchers quickly realized that biological control was the only practical regional to solving the problems posed by this weed. A small weevil identified as Cyrtobagous singularis Hustache (Coleoptra: Curculionidae) has been found to do well in several areas. Control has been dramatic and rapid and has reduced by more than 90% in less than a year following release of the weevil. Zoologists however also opine that there is a possibility that other native fauna may also be destroyed in the process.

4. The Conservator of Forests and Wild Life and Eco-tourism has also filed an affidavit in which he has set out that more than 100 species of birds have been identified at this habitat and it is a natural habitat for various resident and migratory birds. The Task Force for rationalization of boundaries of national parks and sanctuaries at its meeting on 23rd November, 2000 has recommended to the State Government to consider declaring Carambolim Lake as a protected area. The Task Force noted that Carambolim Lake is a wetland of considerable significance and has been identified by the Bombay National History Society (BNHS) as an Important Bird Area harbouring over 80 species of birds. The area comprises of only 75 hectares. The Standing Committee of the Indian Board of Wild Life rejected the

recommendations of the Task Force but the matter has been referred to the Indian Board of Wild Life for reconsideration. It is pointed out that the Carambolim Lake belongs to the Comunidade of Carambolim and that the Tenants' Association which looks after the maintenance of the Carambolim Lake and the Forest Department have no control over the Carambolim Lake and if this Court directs the Forest Department, it is prepared to take over the Carambolim Lake for cleaning and management purposes, subject to the payment of expenses by the Comunidade of Carambolim. It is also set out that if the Konkan Railway Corporation erects wire mesh fencing along both sides of the track traversing the Carambolim Lake, it would prevent pollution by waste materials thrown out from the trains. It is pointed out that the Goa Government has proposed to the Ministry of Environment and Forests, to provide Rs.5.5 crores for maintenance of 6 lakes in Goa, including Carambolim Lake. It is then pointed out that the State Government through its departments, viz. Forest Department or Agriculture Department or in co-ordination with both these departments, has decided to take on the work of de-weeding the Carambolim Lake in order to remove the Salvinia weeds, which have profusely grown in this water body and multiply very fast. At a high level meeting held on 14th July, 2003, the Conservator of Forests has been directed to monitor and

co-ordinate the work of de-weeding. It is set out that accordingly detailed plan, phase-by-phase would be drawn up and the work of de-weeding the lake would be started in the first week of August, after making all preparations to carry out de-weeding on a large scale. It is also pointed out that the State Government has received a proposal for beautification of the Carambolim Lake together with its Landscape Architectural design and project management consultancy from the beautification point of view. the matter is being examined by the State Government separately.

5. Ravi Kapoor, Senior Regional Engineer of Konkan Railway Corporation Limited, has filed an affidavit. It is set out that no waste effluents and other dry garbage of the Konkan Railway Corporation Ltd. flow into the lake. Garbage or any waste thrown by the passengers on the platforms, tracks or station is cleared by the station housekeeping staff. It is set out that the station platform is 27 metres away from the toe of the embankment. Along the embankment, trees are grown to prevent rain cuts on the embankment. A fencing of one metre height is provided by the lake side to prevent cattle crossing the tracks which is at a distance of 45 metres away from the High Level platform and as directed by this Court the Konkan Railway Corporation Ltd., will provide galvanized chain mesh on

either side of the Carambolim lake on the railway embankment to prevent any waste effluents or dry garbage from trains or otherwise flowing into the lake. It is further set out that boundary of the Konkan Railway Corporation Ltd., at Karmali Station on the lake side is 120 metres from the High Level platform. The Konkan Railway Corporation Ltd., shall keep 40 metres of their land between the Konkan Railway Corporation Ltd. boundary and the lake as a "no development zone". The said 40 metres is shown in the map annexed. A separate plan has now been filed, which is taken on record, in which the "no development zone" to be kept is shown as 50 metres between the Konkan Railway Corporation Ltd. boundary and the Lake.

6. Considering what has been set out above, therefore, it will be necessary to issue various directions so that steps are being taken to complete the protection of the Lake as a bird site. A site inspection was carried out on 30th July, 2003 at which the respondents as also some residents and the President of Tenants' Association were present. Considering the discussions the following steps are directed to be taken:-

(i) The Konkan Railway Corporation Ltd., is directed to replace the fencing by a

galvanized chain mesh as discussed at the site inspection held on 30th July, 2003, in consultation with the Conservator of Forests.

(ii) Plantation of acacia, on the lake side to be replaced by low indigenous species in consultation with the Conservator of Forests. Considering the environmental need, the work of removal or felling of trees can be carried on without requiring any permission from the Tree Authority or any other authority.

(iii) Near the culvert, marked on the plan, the Konkan Railway Corporation Ltd. will provide a check dam upstream and also provide a wire mesh fencing. These steps are required to ensure that fresh Salvinia weeds do not enter the Lake and secondly also, to prevent garbage and dry waste from going into the lake from the site of the Konkan Railway platforms. The work to be done in consultation with the Conservator of Forests.

Directions (i), (ii) and (iii) to be complied with within three months from today.

(iv) The embankment has developed cracks at various

placed resulting in water flowing out of the lake. The embankment therefore, requires reinforcement. Presently, sluice gates are looked after by the Tenants' Association and are primitive in character. The State Government to prepare a plan for reinforcing the embankment to prevent leakage of water and provide new sluice gates. The project report to be prepared within three months from today and work to be completed at any rate before 31st May, 2004.

(v) The Tenants' Association to submit to the Conservator of Forests the schedule for release of water for the vaingon crop. Until such time as the sluice gates are not replaced, this work to be done by the Tenants' Association in consultation with the Conservator of Forests. After the sluice gates are replaced, the release of water would be done by the Conservator of Forests in co-ordination with the Tenants' Association who will submit their schedule for release of water to the Conservator of Forests. After the vaingon crop has been harvested, the Tenants' Association shall not open the sluice gate for release of water. Any such action

will be taken only after seeking the approval of the Conservator of Forests and if he grants the same.

(v-a) The Tenants' Association hereinafter not to exercise the right of fishing, considering that the bund is being looked after by the Government and also modern sluice gates are being constructed.

(vi) At the site inspection, it was noted that there is a tradition by the local community of immersion of Ganesh idols. This is not to be interfered with. The Conservator of Forests to take steps to bring it to the notice of the Village Panchayat that the idols to be immersed should be of clay and not made of plaster of paris. There will be a total ban of immersing Ganesh idols made of plaster of paris.

Considering this direction, the State Government may consider banning sale of Ganesh idols made of plaster of paris elsewhere in the State also.

(vii) It has been noted that the land of the Comunidade is being encroached upon. The

respondent State is directed to issue directions to the authorities empowered in that behalf to take steps for removal of such encroachment from the Comunidade land. A compliance report to be submitted.

(viii) Respondent no.1 to also issue notice to the Village Panchayat to take steps to prevent dumping of debris and waste along the Lake and removal of the existing debris. Necessary directions should be issued to the Village Panchayat to that effect.

(ix) To keep the area hygienic near the Lake site, the State Government to sanction the construction of Sulabh type toilets for the locals in the first instance, to those who are bordering the Lake site as far as possible in consultation with the local Panchayat.

(x) An area of 25 metres around the Lake from the high water mark, is to be treated as a "no development zone" including "no conversion zone", excluding those areas where there are houses already existing, where it is to be reduced to not less than 100 feet. The Conservator of Forests is directed to approach

the Directorate of Land Survey to get a plan prepared showing the structures already existing so as to control future development. The Directorate of Land Survey to carry out the survey and prepare the plan within six months from today. It will, however, be open for the State Government, considering the point of Eco-tourism, to construct watch towers, etc. for bird watching. However in the said area no food stalls will be permitted.

(xi) Parking for visitors, visiting the Lake should be provided at a distance of 50 metres from the Lake so that the tourists and bird-viewers do not approach the accessible road by cars and cause pollution or nuisance.

(xii) The Lake area, including 25 metres of "no development zone" around to be treated as a "plastic-free zone".

Compliance report and plans in respect of directions (i) to (xii) to be filed within three months from today.

7. Apart from that, at the time of hearing the learned Amicus Curiae appointed by this Court, has also suggested that the following Lakes also be considered:-

a. Pilar Lake
b. Verna Lake
c. Rumder
d. Calapur Tollem
e. Raiache Tollem
f. Curtorim Lake

It is pointed out that these sites are often used as substitute sites by the migratory birds when the Carambolim Lake was submerged in Salvinia weeds. Certain general directions have also been sought which are:-

(i) that these wetlands listed above will also be brought under the supervision of the Conservator of Forests;

(ii) that suitable buffer zones be created around these areas for protection;

(iii) that protected area be fenced and planted with suitable species of trees for bird nesting;

and

(iv) that Sulabh toilets be constructed outside the protected area where necessary.

Apart from that it has been suggested:-

(i) that there be prohibition of;-

a) discharge of sewerage in any kind or form into the area;

b) setting up of a restaurant in the area;

c) boating facilities;

d) no fishing in the area; and

e) the area to be declares as a "plastic-free zone".

Considering what is set out above, in respect of the new suggestions as given by the learned Amicus Curiae, the Conservator of Forests in consultation with the other Departments to submit a detailed proposal to the Court, within three months from today.

It is made clear that all activities in respect of Carambolim Lake will be co-ordinated by the Conservator of Forests and abide by directions issued, pursuant to the order of this Court.

Order accordingly.

F. I. REBELLO, J.

P. V. HARDAS, J.

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